HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos.22689 and 23849 of 2004

29-07-2005

W.P.No.22689 of 2004 :

Between:

M/s. Excide Industries Limited,

Somajiguda, Hyderabad.

…Petitioner.

And

The Inspector of Legal Metrology,

Weights and Measures Department,

Kurnool and others.

…Respondents.

W.P.No.23849 of 2004 :

Between:

M/s. Excide Industries Limited,

Somajiguda, Hyderabad.

…Petitioner.

And

The Inspector of Legal Metrology,

Weights and Measures Department,

Guntur District and others.

…Respondents.

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos.22689 and 23849 of 2004

COMMON ORDER :

M/s. Excide Industries Limited is the petitioner in these two writ petitions. The writ petitions are filed assailing the notices dated 5-11-2004 and 2-12-2004 issued by the Inspector of Legal Metrology, first respondent herein, informing the petitioner-industry that it has contravened the provisions of Section 39 of the Standards of Weights & Measures Act, 1976 (for short 'the Act') by reason of the alleged violation of Rule 6(1)(d) and (f) of the Standards of Weights & Measures (Packaged Commodities) Rules, 1977 (for short 'the Rules'). The petitioner was also informed that the alleged offence is compoundable under Sections 65 and 73 of the Act and option was given to the petitioner for compounding the contravention.

When the matters are taken up for hearing, the learned Assistant Government Pleader for Civil Supplies Sri M.Sesha Talpa Sai has placed before this Court a Circular Memo issued by the Controller of Department of Metrology, Hyderabad, which is to the effect that the Department is issuing instructions to all the Executives not to book cases on the products of Batteries which require filling up of Acid and charging before they are delivered to the customers after sale. A copy of the said Circular Memo No.5210/T2/2005, dated 29-7-2005 issued by the Controller of Legal Metrology, Hyderabad, which is made part of the record, is placed before this Court. The same reads as under.

> "It is informed that M/s. Excide Industries Limited have filed several Writ Petition Nos.22689 of 2004, 23849 of 2004 and 11044 of 2005 challenging against the cases registered by the executives of Legal Metrology Department. In this connection, it is informed that on examination of the case papers along with the rule position, it is opined that the package of Batteries, which require filling of acid and charging before it is delivered to the customer after sale cannot fall within the ambit of pre-packed commodity as defined under Section 2(b) of the Act and Rule 2(1) of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977.
>
> Therefore, all the Executives of the Department in the State are directed not to book cases on the products of Batteries, which require filling of acid and charging before it is delivered to the customer after sale and drop all further proceedings in the cases registered against the aforesaid products."

In view of the above, the petitioner cannot be said to have committed any contravention of the Act or the Rules. The first respondent, therefore, cannot proceed further pursuant to the impugned notice.

The writ petitions are accordingly disposed of with the above observations. No costs.

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(V.V.S.RAO, J.)

29-07-2005

Msr.

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WRIT PETITION Nos.22689 and 23849 of 2004

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(Msr)